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Before the
Federal Communications Commission
Washington, D. C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Further Forbearance from Title II) GN Docket No. 94-33
Regulation for Certain Types of)
Commercial Mobile Radio Service)
Providers)

**REPLY COMMENTS
OF THE
UNITED STATES TELEPHONE ASSOCIATION**

The United States Telephone Association (USTA) respectfully submits its reply to the comments filed June 27, 1994 in the above-referenced docket. USTA is the principal trade association of the exchange carrier industry. Its members provide over 98 percent of the exchange carrier-provided access lines in the U.S.

In the Second Report and Order in General Docket No. 93-252, the Commission decided to forbear from applying Sections 203, 204, 205, 211, 212 and 214 of Title II of the Communications Act to any service classified as a commercial mobile radio service (CMRS).¹ At that time, the Commission decided that the remaining sections of Title II would be enforced as to CMRS providers. However, the Commission initiated this rulemaking to determine if additional forbearance was warranted. The Commission requested comment on whether to exempt CMRS from compliance with Sections 210, 213, 215, 218, 219, 220, 223, 225,

¹Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, Second Report and Order, General Docket No. 93-252, FCC 94-31 (released March 7, 1994). [Second Report and Order].

226, 227 and 228 of the Act and whether to exempt certain CMRS providers from compliance with those sections. USTA does not believe that the record established to date merits further forbearance at this time and USTA does not favor selective forbearance.

The overriding principles in establishing a regulatory framework for CMRS should be to minimize regulation and, if regulation is deemed necessary, to regulate all substitutable services in an equivalent manner. Only in this way will the Commission be able to avoid conferring a competitive advantage on certain providers or creating classes of providers and services. No service provider should enjoy any regulatory advantage in developing and deploying a particular service. The marketplace should be the ultimate arbiter of who the providers of mobile service are and which mobile services are deployed. This is consistent with both Congressional and Commission objectives to establish symmetrical regulation which will promote competition and serve the public interest without creating unwarranted regulatory burdens.² The Commission should refrain from any type of disparate treatment of CMRS and should treat all such providers in the same manner.

However, the record is unclear as to whether further forbearance is warranted at this time. There does not appear to be sufficient evidence that the three-prong test established by Congress to determine if forbearance is justified has been met,

²Second Report and Order at ¶¶ 14-15.

particularly in regard to sections 223 (prohibiting obscene, harassing and/or indecent communications), 225 (creating the Telecommunications Relay Service and requiring contributions to the interstate fund for that service), 226 (protecting consumers from unreasonably high rates and anticompetitive practices in making interstate operator service calls) 227 (restricting unsolicited telephone calls and facsimile transmissions) and 228 (regulating pay-per-call services).³ These requirements were implemented in response to consumer complaints to resolve specific problems. There can be no doubt that these provisions serve the public interest. These provisions were recently enacted by Congress to either curb abuses suffered by consumers or to ensure greater access to telecommunications services. Mobile radio service customers should be able to enjoy the same protections and benefits of these sections of the Act that wireline service customers enjoy.


The Commission acknowledges that Congress provided a three year transition period before a newly classified CMRS will become subject to the remaining provisions of Title II. In addition, the Commission could allow new licensees additional time before facing compliance with the remaining sections of the Act by postponing compliance until the final build-out requirements are complete. However, USTA urges the Commission to retain the consumer protection provisions listed above to ensure that mobile service customers do not have to face the abuses these provisions

³47 U.S.C. § 332 (c) (1) (A).

were enacted to correct and to ensure that all customers have the opportunity to access mobile service.

Respectfully submitted,

UNITED STATES TELEPHONE ASSOCIATION

By: _____

Mary McDermott
Vice President and General
Counsel

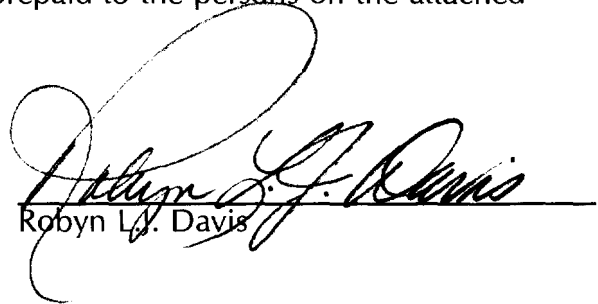
Linda Kent
Associate General Counsel

1401 H Street, NW, Suite 600
Washington, D. C. 20005
(202) 326-7248

July 12, 1994

CERTIFICATE OF SERVICE

I, Robyn L.J. Davis, do certify that on July 12, 1994 copies of the Reply Comments of the United States Telephone Association were either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.


Robyn L.J. Davis

Elizabeth R. Sachs
Lukas, McGowan, Nace & Guterrez
(American Mobile Telecomm.)
1819 H Street, NW
Seventh Floor
Washington, DC 20006

Dennis C. Brown
Brown and Schwaninger
(Applied Technology Group, Inc.)
1835 K Street, NW
Suite 650
Washington, DC 20006

John T. Scott, III
Charon J. Harris
Crowell & Moring
(Bell Atlantic Mobile Systems, Inc.)
1001 Pennsylvania Avenue, NW
Washington, DC 20004

Charles P. Featherstun
David G. Richards
BellSouth
1133 21st Street, NW
Washington, DC 20036

Gail L. Polivy
GTE
1850 M Street, NW
Suite 1200
Washington, DC 20036

Robert S. Foosner
Lawrence R. Krevor
Nextel Communications, Inc.
800 Connecticut Avenue, NW
Suite 1001
Washington, DC 20006

James P. Tuthill
Jeffrey B. Thomas
Pacific Bell and Nevada Bell
140 New Montgomery Street
Room 1522A
San Francisco, CA 94105

Alan R. Shark
American Mobile Telecommunications
Assn., Inc.
1150 18th Street, NW
Suite 250
Washington, DC 20036

Mark C. Rosenblum
Robert J. McKee
AT&T
295 North Maple Avenue
Room 3245H1
Basking Ridge, NJ 07920

William B. Barfield
Jim O. Llewellyn
BellSouth
1155 Peachtree Street, NE
Atlanta, GA 30309

Michael F. Altschul
Andrea D. Williams
Cellular Telecommunications Industry Assn.
1250 Connecticut Avenue, NW
Suite 200
Washington, DC 20036

Cathleen Massey
McCaw Cellular Communications Inc.
1150 Connecticut Avenue, NW
Fourth Floor
Washington, DC 20036

Edward R. Wholl
Jacqueline E. Holmes Nethersole
NYNEX
120 Bloomingdale Road
White Plains, NY 10605

James L. Wurtz
Pacific Bell and Nevada Bell
1275 Pennsylvania Avenue, NW
Washington, DC 20004

Wayne Watts
Carol L. Tacker
Karen B. Peck
Southwestern Bell Mobile Systems, Inc.
17330 Preston Road - Suite 100A
Dallas, TX 75252

Carolyn C. Hill
ALLTEL
655 15th Street, NW
Suite 220
Washington, DC 20005

International Transcription Service
2100 M Street, NW
Suite 140
Washington, DC 20036